

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT



William Donald Schaefer, Governor  
J. Randall Evans, Secretary

**BOARD OF APPEALS**

Thomas W. Keech  
Chairman

Hazel A. Warnick  
Associate Member

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033

Decision No.: 644 -BR-87  
Date: Sept. 28, 1987  
Appeal No.: 8703701  
S. S. No.:

Claimant: Laverna Matheny

Employer: May Dept. Stores Co., Inc.

L.O. No.: 40

Appellant: CLAIMANT

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law.

**— NOTICE OF RIGHT OF APPEAL TO COURT —**

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON October 28, 1987

**— APPEARANCES —**

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals modifies the decision of the Hearing Examiner.

The Board adopts the findings of fact of the Hearing Examiner. Based on these findings, the Board concludes that the claimant did not have "good cause" for leaving her employment within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. The Board also concludes, however, that the claimant had "valid circumstances" for leaving the job. Therefore, a lesser penalty is appropriate.

The claimant's personal health problem (arthritis of the ankle) was documented by a statement from her physician. As a result of this problem, the claimant was unable to perform the duties of her job. Her commissions dropped substantially because of her inability to physically perform her duties. The claimant, who was within two years of retirement, applied for transfers to part-time work, but no transfers were available.

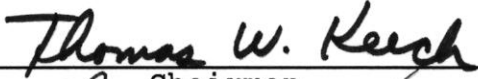
The Board concludes that the claimant's resignation was for necessitous and compelling reasons that left her no reasonable alternative than to leave the employment. This reason thus meets the definition of "valid circumstances" as it is set out in Section 6(a) of the law. For this reason, the penalty must be modified.

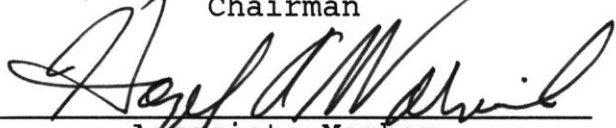
The claimant's reason is not good cause, however, because it was a personal reason (personal illness) which was not attributable to the employment.

#### DECISION

The claimant left work voluntarily, without good cause, but for a valid circumstance, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning May 24, 1987 and the six weeks immediately following.

The decision of the Hearing Examiner is modified.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Associate Member

K:W

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

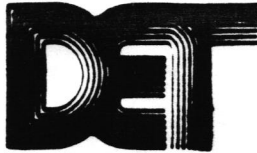
Hecht's, Golden Ring Mall

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UNEMPLOYMENT INSURANCE - EASTPOINT



**DEPARTMENT OF EMPLOYMENT AND TRAINING**

STATE OF MARYLAND  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

(301) 383-5040

STATE OF MARYLAND  
William Donald Schaefer  
Governor

**BOARD OF APPEALS**

THOMAS W. KEECH  
Chairman  
HAZEL A. WERNICK  
Associate Member  
SEVERNE L. JAMES  
Appeals Counsel  
MARK R. WOLF  
Chief Hearing Examiner

**— DECISION —**

Claimant: Laverna J. Matheny

Date: Mailed 7/22/87

Appeal No.: 8703701

S. S. No.:

Employer: May Dept. Stores Co., Inc.

L.O. No.: 40

Appellant: Claimant

**Issue:**

Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the Law.

**— NOTICE OF RIGHT TO PETITION FOR REVIEW —**

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON August 6, 1987

**— APPEARANCES —**

FOR THE CLAIMANT

FOR THE EMPLOYER

Claimant-Present

Louis Novak-  
Personnel  
Director &  
Operations Manager

**FINDINGS OF FACT**

The claimant was employed by Hecht's from May 14, 1979 until May 29, 1987 as a Salesperson. At the time of her separation from employment, the claimant was a Shoe Salesperson and worked strictly on commission.

Because of an ankle that the claimant broke during a skiing accident in 1981, the claimant found that she could no longer perform her duties the way she did before. In fact, because of the arthritis and the problems with her ankle, her salary had dropped because she could no longer cover the same territory that she did before.

The employer had asked the Personnel Department to see if they could get her a part-time position. She was turned down for part-time because none was authorized in the shoe department at that time. In fact, at this particular store, the employer is hiring part-time only for Sundays. The claimant then asked to be assigned duties out on the floor. Again, no part-time position was offered the claimant.

The claimant was treated by Carefirst for her ankle problem. However, the claimant made a decision to quit, not the doctor. She just felt that she was physically unable to work the hours that were required by the job.

#### CONCLUSIONS OF LAW

The claimant voluntarily left her employment, without good cause connected with the work, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Here, the claimant left her job because she felt she was unable to perform the job duties. Even though the claimant asked for and was refused a part-time position in the shoe department, the claimant's separation was not on the advice of her physician. Additionally, the evidence furnished by the claimant's physician does not support a conclusion that the claimant had good cause or valid circumstances to warrant less than the maximum disqualification under Section 6(a) of the Law. Therefore, the determination of the Claims Examiner will be affirmed.

#### DECISION

The claimant voluntarily left her employment, without good cause connected with the work, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from

receiving unemployment insurance benefits for the week beginning May 24, 1987 and until she becomes reemployed and earns at least ten times her weekly benefit amount (\$1950) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.

*Seth Clark*  
Seth Clark  
Hearing Examiner

Date of hearing: 7/16/87  
Cassette: 4145  
hf (M. L. Stockman)

Copies mailed on 7/22/87 to:

Claimant  
Employer  
Unemployment Insurance - Eastpoint- (MABS)  
  
Hecht's  
  
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